

# EXHIBIT 2

**DECLARATION OF AAU PRESIDENT BARBARA R. SNYDER**

I, Barbara R. Snyder, declare as follows:

1. I am President of the American Association of Universities (“AAU”). I have held that position since October 1, 2020. I make this declaration in support of Plaintiffs’ Motion for a Temporary Restraining Order.

2. I have personal knowledge of the contents of this declaration or have knowledge of the matters based on my review of information and records gathered by AAU personnel and personnel from our member universities and could testify thereto.

3. Founded in 1900, the AAU is composed of America’s leading research universities. AAU’s 69 U.S. research universities transform lives through education, research, and innovation. Our member universities earn the majority of competitively awarded federal funding for energy and climate research, which seeks to address national challenges, and contributes significantly to our economic strength, while educating and training tomorrow’s leaders and innovators. AAU member universities collectively help shape policy for higher education, science, and innovation; promote best practices in undergraduate and graduate education; and strengthen the contributions of leading research universities to American society. AAU’s primary goal is to provide a forum for the development and implementation of institutional and national policies promoting strong programs of academic research and scholarship and undergraduate, graduate, and professional education.

4. The federal government has selected AAU member universities to conduct a wide variety of vital research on behalf of United States citizens, funded in part by agency awards from across the federal government, including but not limited to the Department of Energy (“DOE”). AAU member universities each receive significant research funding from DOE grants. Together,

they receive a total of roughly \$1.8 billion in DOE research and development expenditures stretching across various fields, from computer and information sciences to engineering, from geosciences to mathematics and statistics. AAU is dedicated to protecting its member universities' ability to conduct research that is supported by DOE grants. To give a sense of scale: DOE's research and development ("R&D") expenditures nationwide total approximately \$2.7 billion, meaning that funding to AAU's members makes up about two-thirds of all such expenditures. Relying on awards issued by DOE, AAU member universities work on fundamental research that targets some of the most difficult and pressing scientific problems related to energy, climate, and a host of other fields.

5. AAU member universities include, among others, Cornell University, the University of Illinois Urbana-Champaign, the Massachusetts Institute of Technology, the University of Michigan, Michigan State University, the University of Pennsylvania, Boston University, the California Institute of Technology, the University of Colorado Boulder, Brown University, the University of Wisconsin-Madison, and Duke University. I understand that these AAU members and several others are submitting declarations in this litigation, which provide institution-specific detail on the matters described here.

6. On a typical grant, the funding amounts must cover both direct costs (expenses directly related to the specific grant activity) and indirect costs. Indirect costs cover essential expenses such as facilities, utilities, financial administration, and operations that enable research to flourish safely and responsibly, such as research compliance and safety programs, human and animal research protections, and hazardous waste disposal. *See* Office of Management and Budget ("OMB") Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. §§ 200, *et seq.* (the "Uniform Guidance").

Historically, the federal government has used a narrower definition of direct costs than is typical in foundation-funded research, mostly to streamline budgeting and minimize administrative burdens on the agencies. Significantly reducing the allowable indirect cost percentage without altering the way in which costs are classified as direct or indirect significantly disrupts the financial model that has supported needed research and innovation across the United States for decades.

7. Although the federal government's portion of funds needed for university research has been declining over time, indirect cost reimbursements are vital to the operation of the nation's federal research system, which includes the sponsored activities aimed at improving energy solutions as well as educating our country's future scientists and innovators, at AAU member universities. Direct costs on DOE awards simply fall short of covering the real, comprehensive cost of sponsored activities, and do not reflect the full facilities and administration costs that AAU member universities must incur in order to be able to perform the research, training, and education that has made our nation the leader in energy and climate research.

8. On April 11, 2025, DOE issued the guidance "Adjusting Department of Energy Grant Policy for Institutions of Higher Education (IHE)" ("DOE Guidance"). The DOE Guidance provides that indirect costs allowed on all future awards to institutions of higher education shall be limited to 15 percent. Further, it provides that DOE will terminate all grant awards to institutions of higher education that "do not conform with this updated policy," indicating an intent to terminate any grant award currently funded at an indirect cost rate higher than 15 percent.

9. If the DOE Guidance is permitted to remain in effect, it will irreparably harm the energy and climate research ecosystem and research at AAU member universities that drives

economic activity across the country and American competitiveness in improving energy solutions. Such a drastic decrease in allowable indirect costs—especially regarding currently funded awards on which sponsored research activities are in process and for indirect costs that AAU member universities have already budgeted for in the current fiscal year—will immediately impair AAU member universities’ ability to conduct sponsored research in compliance with the underlying award agreements and applicable laws. This is not to mention the irreparable harm that *termination* of DOE grant awards to AAU member universities would have.

10. For example, without continuing indirect cost reimbursement at AAU member universities’ negotiated rates, AAU member universities will no longer be able to carry out all the sponsored activities, including supporting the next generation of scientists and properly maintaining facilities and equipment currently in use. AAU member universities do not have sufficient budgeted operational funds to cover a sudden structural decrease in indirect cost recovery for existing awards on an ongoing basis, and will be required to implement layoffs, both for researchers, staff scientists, post-doctoral trainees, research administration officers and other employees of the universities who perform critical but indirect work in support of sponsored activity (such as custodians, security guards, and so forth); and reductions in administrative costs necessary for research services, as well as consider the implications for institutional capacity to enroll current and future doctoral student and support their progression to degree completion. This harm is not limited to monetary damages that can be rectified with a compensatory award. For example, even if the indirect cost rate is increased at a later date, if a research facility must be closed in the interim because its operation and maintenance cannot be funded without interruption, it is often difficult, if not impossible, to reopen such facilities.

11. AAU member universities necessarily rely on both the direct cost and the

indirect cost portions of funding provided with each specific DOE award in formulating their overall operating budgets in any given year. Many of the AAU's member universities have negotiated an indirect cost rate that is significantly higher than 15 percent, often in the 50-to-60-percent range. Operating budgets rely upon estimates of direct and indirect sponsored funding to plan for annual staffing needs, infrastructure support (*e.g.*, IT networks, regulatory compliance, safety and grant management support), facility building and renovation, and equipment purchases to support a broad range of research activities.

12. I understand several AAU member universities will explain at greater length in their own declarations the devastating impact the DOE Guidance will have on their programs.

13. In addition, we have heard from numerous other member universities whose programs will face significant disruption as a result of the DOE Guidance.

- a. Current DOE funding for Rutgers University, an AAU member university located in New Brunswick, New Jersey, includes 29 active subawards totaling \$16.5 million and 22 active awards totaling \$15.7 million through February 2026, for a total of \$32.2 million. Rutgers currently receives indirect costs at a rate of 57 percent and therefore stands to lose all of this funding if that rate is not reduced to 15 percent. If its rate were reduced to 15 percent, Rutgers would suffer a projected loss of \$12.2 million in research funds over the next two years.
- b. In the last fiscal year, DOE awards to Brandeis University, an AAU member university located in Waltham, Massachusetts, totaled \$2.84 million, \$728,000 of which were indirect costs, spread across 12 different awards.

Brandeis's indirect cost rate for the fiscal year are 59 percent. If this rate were reduced to 15 percent, Brandeis's indirect cost recovery for the fiscal year would decrease by approximately \$480,000. This money goes to fund critical and cutting-edge physics research, such as research on active matter that may lead to new categories of devices mimicking living cells; high-energy physics experiments in collaboration with CERN that may be critical to future competitiveness in the energy economy; and quantum physics research relevant to quantum computing applications. Indirect costs include, for example, the costs of servers and networking equipment in its High Performance Computing Cluster ("HPCC"), used by researchers supported by DOE grants. The funding reduction contemplated by the DOE Guidance would cause Brandeis to have to either close HPCC or operate it at reduced schedules with fewer personnel, seriously hindering the critical work done there related to research computing and computational studies.

- c. Washington University, an AAU member university located in St. Louis, Missouri, recently purchased a JEOL JEM-ARM300F2 Atomic Resolution Electron Microscope. This is a uniquely powerful microscope which will enable the study of materials at the atomic scale, including under challenging conditions approximating real-life service. The experiments using this microscope will be invaluable to the design of next-generation energy production and storage systems such as catalysts and batteries, quantum materials and devices necessary to power the future of computing and AI, and sensors for point-of-care medical diagnostics. This highly complex piece of

equipment cost approximately \$4 million. Washington University invested in significant renovations of a laboratory to accommodate the needs of this very sensitive instrument. The annual fee for service and maintenance of this microscope costs approximately \$200,000 per year and funding required for a research scientist to oversee its operations is approximately \$100,000 per year. Washington University relied upon continued DOE funding at the negotiated indirect cost rate in making this commitment and the proposed rate reduction will significantly compromise our ability to support this microscope and the fundamental, ground-breaking research it enables.

- d. At Dartmouth College, an AAU member institution located in Hanover, New Hampshire, approximately \$25.5 million in funding is attributable to active awards from DOE received either directly or as a sub-awardee to support critically important research. For example, at Dartmouth's Thayer School of Engineering, DOE funding supports work in areas such as anaerobic biomass ethanol production and photovoltaic cells to increase U.S. energy independence, cost-effective and high-energy density battery systems that would support various industries with less dependence on foreign raw materials, and engineers working to improve energy efficiency in microchips to maintain U.S. competitiveness in this critical area. Dartmouth has already made major investments, and has committed to making similarly significant future investments, to purchase, construct, operate, and maintain purpose-built facilities and highly advanced research equipment in relation to this work. None of this investment would be possible without the ability to recover



a significant portion of these investments from federal agencies like DOE through Dartmouth's specifically negotiated indirect cost rate. For example, in 2022, Dartmouth opened two new research-intensive buildings, including a new Engineering and Computer Science Complex, which houses nearly all of Dartmouth's laboratories with Department of Energy funding and includes a \$10 million bioprocessing facility that was specifically fitted for this research. If DOE's proposed 15 percent indirect costs rate cap were allowed to go into effect, Dartmouth would be unable to recover real expenses for the operation and maintenance of these facilities. Dartmouth constructed these facilities specifically to support nationally-important research relevant to the goals of DOE—with the expectation that the long-established and mutually agreed indirect cost rates would apply to current and future grants and contracts from DOE. More specifically, the proposed 15 percent indirect cost rate would reduce Dartmouth's negotiated indirect cost rate by up to three quarters. This reduction would mean fewer resources to support DOE-sponsored research. Dartmouth has also invested significant resources in "start-up" packages for two recent hires who are both engaged in DOE research. These packages represent Dartmouth's commitment of \$2.65 million in "start-up" costs, without which the critical and cutting-edge power systems and grid security research conducted by these new faculty members and their laboratories could not be done. These investments, like the others noted, were made in reliance on Dartmouth's understanding that it would receive the full benefit of the indirect cost rate that it negotiated with the

federal government and which DOE now seeks to change suddenly and unilaterally.

14. One AAU member university which receives about \$10 million each year from DOE for indirect costs noted that these costs are used for critical personnel and facilities in support of its DOE mission and would likely not be able to continue this work with a rate cut. For example, it has significant nuclear energy and nonproliferation activities that require significantly higher indirect costs to maintain than would be possible with a 15 percent rate. On the facilities side, it has specialized nuclear-rated facilities, such as glove boxes and manufacturing facilities. On the administration side, it has an Office of Radiological Safety and dedicated and trained personnel to ensure safety and compliance. Both these specialized facilities and dedicated personnel are used to educate the nuclear workforce for the country, and perform critical R&D work, which could not be funded from the university's own budget. The university can currently sustain those programs because their cost is supported by DOE in service of the national interest. If DOE does not cover those costs, the programs will be unsustainable and they will almost certainly be shut down.

15. The harmful impact of the new DOE Guidance is not limited to AAU member universities. Many AAU member universities are the largest employers in their local areas. If the lower indirect cost reimbursement rate—or, worse, termination of grant awards—requires layoffs, that loss of employment will be harmful not only to the affected employees and their families, but to the overall economic stability of AAU member universities' hometowns as a whole. An AAU member university may have to reduce the quantity of equipment and labor used to maintain its facilities, lowering the economic activity of the local area and impairing the funding that flows to essential local government services arising

out of that activity.

16. In addition, the DOE Guidance will undermine the feasibility of many kinds of specialized research that results in scientific breakthroughs that provide significant social and economic value to the country, sometimes opening up entirely new areas of commercial development. The United States is a stronger, more secure, and more economically vibrant country as a result of the collective benefits arising from federally sponsored research. Additionally, the next generation of scientists, physicians, engineers, and other skilled workers develop their vitally important expertise while learning and working at research institutions such as AAU member universities. The DOE Guidance would drastically reduce the positive impact of this work and the pipeline of educated professionals that United States industry requires to be internationally competitive. Slowdowns or halts in research by AAU member universities will allow competitor nations that are maintaining their investments in research to surpass the United States on this front, threatening our nation's national security and its economic dominance.

17. In addition, the DOE Guidance came without appropriate notice of how AAU member universities should implement the new rate requirement. Further, it only noted that recipients who have grant awards "subject to termination will receive separate notice and guidance." Our members have no way of knowing when a termination may come if they fail to reduce their indirect cost rates to 15 percent. It could be in a week; it could be tomorrow. It is impossible to know for how much longer our members will continue receiving funding for indirect costs at current rates, and as a result, it is impossible for them to make financial plans for the coming days, weeks, and months.

18. If AAU member universities are required to choose between termination and a 15%

indirect cost rate that covers even less of their true costs than their negotiated rates, they will often have to choose termination—as many of these universities will not be able to sustain this research at that rate.

19. Temporary injunctive relief is vital to protect against these devastating consequences. Even if the DOE Guidance is ultimately rescinded or held invalid, AAU member universities do not have the ability to cover such radical reductions in indirect cost reimbursement during the course of protracted litigation. AAU member universities' existing endowments cannot simply be redirected to pick up these losses. The vast majority of endowed funds are restricted by the terms on which the funds were donated to the AAU member university and cannot legally be used to cover research infrastructure costs. Moreover, an AAU member university may only draw down the portion of the endowment that is unrestricted at a rate that complies with applicable law.

20. As non-profit institutions, AAU member universities reinvest nearly all of their revenues into mission-critical activities, leaving little margin to absorb unexpected funding gaps. In other words, unlike for-profit organizations, AAU member universities do not generate significant surpluses that could be redirected without impacting core academic priorities such as educational programs and financial aid support for students.

21. Moreover, absorbing the cost of a lower indirect cost rate, even if it were possible, would create long-term budget pressures on AAU member universities, which would in turn force reductions in key investments supporting AAU member universities' faculty, students, staff, research, and teaching infrastructure, as well as other critical activities needed to maintain AAU member universities' academic excellence.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 13, 2025, at Washington, DC.

A handwritten signature in blue ink that reads "Barbara R. Snyder". The signature is written in a cursive style with a horizontal line at the end.

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BARBARA R. SNYDER